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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,866	10/15/2004	Thomas Kleedorfer	23078	6628

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EXAMINER

COSTALES, SHRUTI S

ART UNIT PAPER NUMBER

1714

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/511,866

Applicant(s)

KLEEDORFER ET AL.

Examiner

Shruti S. Costales

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:
The oath or declaration filed by the applicant is not in English.

It is to be noted that unless the text of any oath or declaration in a language other than English is a form provided or approved by the Patent and Trademark Office, it must be accompanied by an English translation together with a statement that the translation is accurate, except that in the case of an oath or declaration filed under 37 C.F.R. § 1.63, the translation may be filed in the Office no later than two months from the date applicant is notified to file the translation. See 37 C.F.R. § 1.69.

Claim Objections

2. Claims 2 and 5 are objected to because of the following informalities:

(i) Claim 2 depends from claim 1 and claim 2, wherein a claim cannot depend from itself. It is suggested that the applicant amend the claim to remove the dependency from itself.

(ii) Claim 5 recites "A fuel according to claim 1...", wherein the claim should be amended to recite "The fuel according to claim 1..." such that claim 5 properly refers back to the fuel claimed in claim 1.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, claim 10 recites "a binder like stearin", wherein it is not clear to one of ordinary skill in the art what is meant by "a binder like". Therefore, it is not possible to determine the scope of claim 10.

Similarly, claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, claim 13 recites "a water repellant coating like stearin", wherein it is not clear to one of ordinary skill in the art what is meant by "like" stearin.

5. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, claim 3 recites "components of this type of straw (straw shavings)", wherein it is not clear to one of ordinary skill in the art what is meant by "type" and exactly which components would meet such a criteria. Further, it is to be noted that it is not clear to one of ordinary skill in the art what the scope of the claim is as one cannot determine from the language of claim 3 if a straw or straw

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shaving is required, wherein "straw" is a very broad genus and "straw shavings" is a much narrower genus.

6. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, claim 5 recites "digestion (fermentation)", wherein it is not clear to one of ordinary skill in the art what the scope of the claim is as "digestion" is a very broad term of art and "fermentation" refers to a very specific method of decomposition involving microorganisms.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karim (U.S. Patent Number 2,382,568) in view of Ross (U.S. Patent 5,421,836).

Karim discloses molded products such as briquettes (Page 1, lines 36-43). A briquette is disclosed that is of vegetable origin and does not require any binding media (Page 2, lines 6-18). The vegetable plant materials disclosed by Karim include straw, sawdust, etc. (Page 3, lines 65-69), wherein the sawdust inherently corresponds to hardwood particles. Karim's briquette's are formed by forming a pulp of the plant material and then fermenting the pulp which imparts to the pulp a binding property which considerably enhances the strength and toughness of the molded product (Page 2, lines 56-73), wherein the fermented product is eventually placed in mold where under pressure a briquette having substantial strength and hardness is formed (Page 3, lines 51-75 and Page 4, lines 1-20).

The difference between Karim and the presently claimed invention is that the compacts are useful as fuel and include coconut shells and limestone.

Ross, which is drawn to an organic fuel briquette (Col. 1, lines 7-10), discloses that the briquette, which is a compacted product, is produced from coconut shells and limestone (Col. 1, lines 34-41). Coconut charcoal is produced from the coconut shells, which is then pulverized into particles (Col. 2, lines 24-68 and Col. 3, lines 1-9). It would have been obvious to one of ordinary skill in the art to add Ross' processed coconut shells and limestone into Karim's briquette as a fuel because of the organic nature of the fuel no "off" flavors are imparted to food during cooking due to the release of any nitrates etc. (Col. 1, lines 13-31), thereby obtaining the invention as set forth in the presently cited claims.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Karim in view of Ross as applied to claims 1 and 2 above, and further in view of Ciaramitaro et al. (U.S. Patent Number 4,435,232).

The discussion above regarding Karim and Ross in paragraph 8 is herein incorporated by reference.

The difference between Karim in view of Ross and the presently claimed invention is Ciaramitaro is the various types of straw.

Ciaramitaro, which is drawn to explosive compositions where ground cellulose materials are used as fuel (Col. 1, lines 7-11 and Col. 2, lines 8-25), discloses cotton, ramie, flax, linen, hemp, sisal, jute, straw, etc. (Col. 3, lines 6-12). It would have been

obvious to one of ordinary skill in the art to use Ciaramitaro's various straws in Karim's briquette because these fibers consist primarily of cellulose which is useful as a fuel (Col. 3, lines 6-12 and Col. 2, lines 8-25), thereby obtaining the invention as set forth in the presently cited claim.

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Karim in view of Ross as applied to claims 1 and 2 above, and further in view of Grohman (U.S. Pre-Grant Publication Number 2002/0063358).

The discussion above regarding Karim and Ross in paragraph 8 is herein incorporated by reference.

The difference between Karim in view of Ross and the presently claimed invention is the particle sizes of the coconut shells and the straw.

Grohman, which is drawn to composite products including fibrous or cellulosic material (Page 1, paragraph [0009]), discloses that the average particle size of coconut shells, straw, and various wood forms is less than about 0.5 inches (1.27 cm) and preferably between 0.0625 inches and 0.25 inches (Page 1, paragraph [0012]), which corresponds to 0.16 cm and 0.64 cm. It would have been obvious to one of ordinary skill in the art to use the average particle size as disclosed by Grohman in Karim's briquette because the resulting product would have stiffness (Page 1, paragraph [0012]), which would be a desirable quality in a briquette for long term use and storage, thereby obtaining the invention as set forth in the presently cited claim.

11. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Karim in view of Ross as applied to claims 1 and 2 above, and further in view of Metzger (U.S. Patent Number 3,711,392).

The discussion above regarding Karim and Ross in paragraph 8 is herein incorporated by reference.

The difference between Karim in view of Ross and the presently claimed invention is the requirement of the various specified types of microorganisms required for fermentation.

Metzger, which is drawn to the use of biodegradable waste (Col. 1, lines 61-62), discloses various types of bacteria throughout the specification that are useful in fermentation of carbohydrates and cellulose (Col. 2, lines 60-65) in addition to yeasts and fungi (Col. 5, lines 21-22). It would have been obvious to one of ordinary skill in the art to use Metzger's various microorganisms to ferment the components forming Karim's briquette because the various types of microorganisms provide efficient conversion of the various components of the briquette (Col. 2, lines 10-15), thereby obtaining the invention as set forth in the presently cited claim.

12. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karim in view of Ross as applied to claims 1 and 2 above, and further in view of Schultz (U.S. Patent Number 2,531,828).

The discussion above regarding Karim and Ross in paragraph 8 is herein incorporated by reference.

The difference between Karim in view of Ross and the presently claimed invention is an ignition promoter within the compact which has a specified shape and has holes.

Schultz, which is drawn to fuel briquettes (Col. 1, lines 1-7), discloses a briquette having ventilating openings and that several shapes of the briquette may be formed (Co. 2, lines 3-14 and Col. 3, lines 13-30), therein intrinsically including a ring shaped briquette. Schultz also discloses that a liquid fuel is impregnated within the briquette (Col. 2, lines 27-31). It would have been obvious to one of ordinary skill in the art to use the features of Schultz's briquette in Karim's briquette because such porosity along with an impregnated source of fuel provides an increase in the smudging capacity of the briquette during protecting combustion (Col. 3, lines 55-61), thereby obtaining the invention as set forth in the presently cited claims.

13. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karim in view of Ross as applied to claims 1 and 2 above, and further in view of Rodman (U.S. Patent Number 2,036,300).

The difference between Karim in view of Ross is the requirement of stearin in the coating.

Rodman, which is drawn to coating compositions (Col. 1, lines 1-5), discloses that stearin is a component of paint (Page 2, lines 49-75). It would have been obvious to one of ordinary skill in the art to include stearin in the paint disclosed by Karim in view of Ross because such a paint would not represent hard caking (Page 2, lines 49-75), while providing characteristics such as water repellency and fire proofing as disclosed

by Karim in view of Ross, thereby obtaining the invention as set forth in the presently cited claims.

14. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karim in view of Ross.

Karim discloses molded products such as briquettes (Page 1, lines 36-43). A briquette is disclosed that is of vegetable origin and does not require any binding media (Page 2, lines 6-18). The vegetable plant materials disclosed by Karim include straw, sawdust, etc. (Page 3, lines 65-69), wherein the sawdust inherently corresponds to hardwood particles. Karim's briquette's are formed by forming a pulp of the plant material and then fermenting the pulp which imparts to the pulp a binding property which considerably enhances the strength and toughness of the molded product (Page 2, lines 56-73), wherein the fermented product is eventually placed in mold where under pressure a briquette having substantial strength and hardness is formed (Page 3, lines 51-75 and Page 4, lines 1-20). With respect to the 2-4 weeks fermentation time recited by the presently cited claims, Karim discloses a fermentation time of 3 to 7 days (Page 3, lines 39-42), wherein it would have been intrinsically obvious to one of ordinary skill in the art to ferment the vegetable plant materials for a longer period of time to ensure completion of fermentation and obtaining the benefits of a briquette having higher strength and toughness (Page 2, lines 56-73).

The difference between Karim and the presently claimed invention is that (a) the compacts are useful as fuel and include coconut shells and limestone.

With respect to the difference in (a), Ross, which is drawn to an organic fuel briquette (Col. 1, lines 7-10), discloses that the briquette, which is a compacted product, is produced from coconut shells and limestone (Col. 1, lines 34-41). Coconut charcoal is produced from the coconut shells, which is then pulverized into particles (Col. 2, lines 24-68 and Col. 3, lines 1-9). It would have been obvious to one of ordinary skill in the art to add Ross' processed coconut shells and limestone into Karim's briquette as a fuel because of the organic nature of the fuel no "off" flavors are imparted to food during cooking due to the release of any nitrates etc. (Col. 1, lines 13-31).

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shruti S. Costales whose telephone number is (571) 272-8389. The examiner can normally be reached on Monday - Friday, 6:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

SSC

Shruti S. Costales
September 2, 2005

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